

Our File No. 202658

**IN THE FEDERAL DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

TOD RISSMILLER and BRENDA
RISSMILLER, his wife,

Plaintiffs,

v.

WERNER ENTERPRISES, INC., DOLLAR
GENERAL CORPORATION, JHON CLEEF
FLEURIVAL, JOHN DOES 1-4 and/or ABC
CORPORATIONS 1-4 (fictitious names for
persons, partnerships and/or corporations
intended, true names unknown),

Defendants.

DOCKET NO.

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY:

Defendant, Werner Enterprises, Inc., by and through its attorneys, Salmon Ricchezza
Singer & Turchi, LLP, respectfully aver as follows:

1. At all material times, Plaintiffs, Todd Rissmiller and Brenda Rissmiller were and
are citizens of the State of New Jersey. (See Plaintiff's Complaint, attached hereto as Exhibit
"A").

2. At all material times, Defendant, Jhon Cleef Fleurival, was and is a citizen of the
Commonwealth of Pennsylvania.

3. At all material times, Defendant, Werner Enterprises, Inc., was and is a
corporation organized under the laws of the State of Nebraska with its principal place of business
in Omaha, Nebraska.

4. Upon information and belief, Defendant, Dollar General Corporation, was and is a corporation organized under the laws of the State of Tennessee with its principal place of business in Goodlettsville, Tennessee. (See SEC Registration and Internet Search Results, attached hereto as Exhibit “B”).

5. Plaintiff initiated this action by Complaint filed in the Superior Court of New Jersey, Warren County, Law Division on or about June 16, 2022. (See Exhibit “A.”)

6. The Complaint was served on Defendant, Werner Enterprises, Inc., on or about July 15, 2022. Upon information and belief, Defendants, Jhon Cleef Fleurival and Dollar General Corporation, have not been served. However, as counsel for Defendant Werner will represent Defendant, Fleurival, once served, by counsel herein, Defendant, Fleurival, hereby consents to this removal. As Defendant, Dollar General, has not been served, its consent to this removal is not required pursuant to 28 U.S.C. § 1446(b)(2).

7. Although plaintiffs’ Complaint alleges Defendant, Dollar General Corporation “was the owner, Lessee, or licensee of said vehicle operated by Defendant JHON CLEEF FLEURIVAL and was responsible for the supervision, maintenance, repairs and oversight of said vehicle”, defendant, Werner Enterprises, Inc., hereby confirms it owed the tractor being operated by Defendant, Jhon Cleef Fleurival, under its U.S. DOT authority at the time of the subject accident. A such, defendant, Dollar General Corporation, is an unnecessary party which should be dismissed from this lawsuit.

8. Although plaintiff’s complaint does not contain an addendum clause, it alleges “Plaintiff, TODD RISSMILLER, was caused to sustain and did sustain serious and permanent personal injuries and has been caused great pain and suffering; has been and will be caused to expend large sums of money in an effort to cure himself of his injuries requiring and has been

and will be deprived of attending his usual activities and other great damages.” (See Exhibit “A”, at First Count, ¶4.; Third Count, ¶6).

9. Moreover, pre-suit medical records from counsel confirm plaintiff Rissmiller alleges injuries to his cervical spine which required C5/6 Anterior Cervical Discectomy Fusion. (See Operative Report attached hereto as Exhibit “C”).

10. Therefore, by a preponderance of evidence within the meaning of 28 U.S.C. §§ 1332 and 1446(b)(3), Defendant asserts plaintiff alleges a claim which is in excess of the jurisdictional limit of \$75,000.

11. As diversity of citizenship within the meaning of 28 U.S.C. § 1332 exists between the Plaintiffs and Defendants:

- a. Plaintiffs were and are citizens of the State of New Jersey;
- b. Defendant, Jhon Cleef Fleurival, was and is a citizen of the Commonwealth of Pennsylvania;
- c. Defendant, Werner Enterprises, Inc., was and is a corporation organized under the laws of the State of Nebraska with its principal place of business in the State of Nebraska;
- d. Defendant, Dollar General Corporation, was and is a corporation organized under the laws of the State of Tennessee with its principal place of business in the State of Tennessee.

Defendant is entitled to removal pursuant to 28 U.S.C. § 1441, as amended, and 28 U.S.C. § 1446.

WHEREFORE, Defendant, Werner Enterprises, Inc., herein pray that the above-captioned action now pending in the Superior Court of New Jersey, Law Division, Warren County, be removed therefrom to this Honorable Court.

SALMON RICCHEZZA SINGER & TURCHI, LLP

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Dated: July 28 , 2022